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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 TYSON MARSHEK,
10 Plaintiff,

11 v.

12 T-MOBILE USA, INC.
13 Defendant.

CASE NO. 3:11-CV-05476-RJB-JRC
ORDER DIRECTING SERVICE

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15 This is a Fair Credit Reporting Act action brought pursuant to 15 U.S.C. § 1681.
16 Plaintiff has been granted leave to proceed with this action in forma pauperis. The court,
17 having reviewed Plaintiff's complaint, does hereby **ORDER** as follows:

18 (1) Service by Clerk

19 The Clerk is directed to send the following to the named defendants by first class
20 mail: a copy of plaintiff's civil rights complaint, a copy of this Order, two copies of the
21 Notice of Lawsuit and Request for Waiver of Service of Summons, a Waiver of Service
22 of Summons, and a return envelope, postage prepaid, addressed to the Clerk's Office.

23 (2) Response Required
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1 Defendants shall have **thirty (30) days** within which to return the enclosed waiver
2 of service of summons. A defendant who timely returns a signed waiver shall have **sixty**
3 **(60) days** after the date designated on the notice of lawsuit to file and serve an answer to
4 the amended complaint or a motion permitted under Rule 12 of the Federal Rules of Civil
5 Procedure.

6 A defendant who fails to timely return a signed waiver will be personally served
7 with a summons and complaint, and may be required to pay the full costs of such service,
8 pursuant to Rule 4(d)(2). A defendant who has been personally served shall file an
9 answer or motion permitted under Rule 12 within **thirty (30) days** after service.
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11 (3) Filing and Service by Parties, Generally

12 All attorneys admitted to practice before this court are required to file documents
13 electronically via the court's CM/ECF system. Counsel is directed to the Court's
14 website, www.wawd.uscourts.gov, for a detailed description of the requirements for
15 filing via CM/ECF. All non-attorneys, such as *pro se* parties and/or prisoners, may
16 continue to file a paper original with the Clerk. All filings, whether filed electronically or
17 in traditional paper format, must indicate in the upper right hand corner the name of the
18 Magistrate Judge to whom the document is directed.

19 For any party filing electronically, when the total of all pages of a filing exceeds
20 fifty (50) pages in length, a paper copy of the document (with tabs or other organizing
21 aids as necessary) shall be delivered to the Clerk's Office for chambers. The chambers
22 copy must be clearly marked with the words "Courtesy Copy of Electronic Filing for
23 Chambers."
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1 Finally, any document filed with the court must be accompanied by proof that it
2 has been served upon all parties that have entered a notice of appearance in the
3 underlying matter.

4 (4) Motions

5 Regarding the filing of motions before the court, the parties are directed to review
6 Local Rule CR 7 in its entirety. A few important points are highlighted below:

7 Any request for court action shall be set forth in a motion, properly filed and
8 served. Pursuant to amended Local Rule CR 7(b), any argument being offered in support
9 of a motion shall be submitted as a part of the motion itself and not in a separate
10 document. **The motion shall include in its caption (immediately below the title of the**
11 **motion) a designation of the date the motion is to be noted for consideration upon**
12 **the court's motion calendar.**

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14 In all instances where one of the parties to a lawsuit is incarcerated, **all** categories
15 of non-dispositive motions not listed in Local Rule CR 7(d)(1) must be noted for the third
16 Friday after the date of filing and service. This applies to all non-dispositive motions,
17 even those which are normally (if none of the parties are incarcerated) permitted to be
18 noted 7 judicial days after filing. *See* Local Rule CR 7(d)(2).

19 All dispositive motions shall be noted for consideration no earlier than the fourth
20 Friday following filing and service of the motion.

21 (5) Motions for Summary Judgment

22 If one of the parties files a motion for summary judgment pursuant to Federal
23 Rules of Civil Procedure 56, the opposing party should acquaint him/herself with Rule
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1 56. Rule 56 requires a nonmoving party to submit affidavits or other evidence in
2 opposition to a motion for summary judgment if the moving party has shown the absence
3 of issues of material fact and an entitlement to judgment as a matter of law. A
4 nonmoving party may not rest upon the mere allegations or denials of prior pleadings.
5 Rather, successful opposition to a motion for summary judgment requires the nonmoving
6 party to set forth, through affidavits or other evidence, specific facts showing a genuine
7 issue for trial. Failure by the nonmoving party to oppose a summary judgment motion or
8 to present counter evidence could result in the court accepting the moving party's
9 evidence as the truth, and entering final judgment in favor of the moving party without a
10 full trial. Rand v. Rowland, 113 F.3d 1520 (9th Cir. 1997).


12 (6) Direct Communications with District Judge or Magistrate Judge

13 No direct communication is to take place with the District Judge or Magistrate
14 Judge with regard to this case. All relevant information and papers are to be directed to
15 the Clerk.

16 (7) Clerk's Action

17 The Clerk is directed to send copies of this Order and of the General Order issued
18 by the Magistrate Judges to Plaintiff.

19 DATED this 22nd day of August, 2011.

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22 J. Richard Creatura
23 United States Magistrate Judge
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